

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:16-CR-00298-D-1

UNITED STATES OF AMERICA)
)
v.)
)
TREYTON LEE THOMAS)

**MOTION FOR INTERLOCUTORY
SALE OF CRYPTOCURRENCY**

The United States of America, by the United States Attorney for the Eastern District of North Carolina, pursuant to Fed. R. Crim. P. 32.2(b)(7) and Supplemental Rule G(7)(b), hereby moves the Court for an order allowing the interlocutory sale of 279.54265708 bitcoin and 17.58531728 bitcoin cash that has been preliminarily forfeited to the United States pursuant to a Preliminary Order of Forfeiture [D.E. 132], and is currently in the custody of the United States Marshals Service (“USMS”).

In support of this motion, the government states as follows:

1. On July 2, 2019, the Court entered a Preliminary Order of Forfeiture [D.E. 132] against the above-named defendant, forfeiting to the United States the defendant’s interest in certain property, including \$6,960,438.63 in criminal proceeds that the defendant personally obtained directly or indirectly as a result of the criminal violation to which he pled guilty, and for which the Court found that the United States is entitled to forfeit substitute assets equal to the value of the proceeds obtained by the defendant.

2. The Preliminary Order of Forfeiture also preliminarily forfeited certain substitute assets in satisfaction of the \$6,960,438.63 forfeiture money judgment,

including “[a]ll bitcoin (“BTC”) and bitcoin cash (“BCH”) owned by Thomas in wallets and/or accounts held through third-party currency exchange Coinbase (approximately 279.543012 BTC and 279.543012 BCH), including any and all proceeds from the sale of such BTC/BCH.” [D.E. 132.]

3. Upon receiving authorization to seize the above-stated bitcoin and bitcoin cash pursuant to the Preliminary Order of Forfeiture, the United States transferred 279.54265708 bitcoin and 17.58531728 bitcoin cash (the “Cryptocurrency”) into government custody.¹ These assets are currently held by the USMS.

4. The government is currently in the process of completing the requirements to obtain a final order of forfeiture with respect to the cryptocurrency currently in the United States’ custody pursuant to the Preliminary Order of Forfeiture. The Preliminary Order of Forfeiture is already final as to the defendant, and the United States is not aware of any third parties to whom direct notice was required to be sent; however, publication of notice of the forfeiture of these assets is still pending.

5. The United States now seeks an order authorizing the interlocutory sale of the Cryptocurrency pending the motion for a final order of forfeiture.

6. Fed. R. Crim. P. 32.2(b)(7) states that “[a]t any time before entry of a

¹ The balance of the preliminarily forfeited bitcoin and bitcoin cash has been inaccessible due technological issues. To the extent the government is able to recover these assets in the future, and there remains an outstanding amount on the defendant’s forfeiture money judgment, the United States may seek a final order of forfeiture as to those assets at a later date.

final forfeiture order, the court, in accordance with Supplemental Rule G(7) of the Federal Rules of Civil Procedure, may order the interlocutory sale of property alleged to be forfeitable.” Supplemental Rule G(7)(b)(i) states that the court “may order all or part of the property sold if: (A) the property is . . . at risk of deterioration, decay, or injury by being detained in custody pending the action; (B) the expense of keeping the property is excessive or is disproportionate to its fair market value; (C) the property is subject to a mortgage or to taxes on which the owner is in default; or (D) the court finds other good cause.”

7. In this case, the Cryptocurrency’s value is volatile. For example, the value of the bitcoin has fluctuated by thousands of dollars during the last sixty days. As of the date of filing, the price of bitcoin exceeds \$34,000, and the price of bitcoin cash is approximately \$500, but these values are at risk of serious “deterioration” based on the volatility of these assets.

8. Accordingly, the United States requests that the Court authorize the United States Marshals Service to sell the Cryptocurrency or otherwise exchange the Cryptocurrency for cash in accordance with its standard practices for selling or disposing of bitcoin and bitcoin cash, and, in accordance with Supplemental Rule G(7)(b)(iv), to hold the cash proceeds of the sale or exchange in an interest-bearing account until publication requirements are complete and the United States can obtain a final order of forfeiture as to the preliminarily forfeited assets and seek any other relief as appropriate.

WHEREFORE, the United States respectfully requests that the Court enter the proposed order for interlocutory sale submitted herewith.

Respectfully submitted, this 22nd day of January, 2021.

ROBERT J. HIGDON, JR.
United States Attorney

By: /s/ John E. Harris
JOHN E. HARRIS
Assistant United States Attorney
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
E-mail: john.harris5@usdoj.gov
NC State Bar No. 49253

CERTIFICATE OF SERVICE

I certify that I have on this 22nd day of January, 2021, served a copy of the foregoing motion upon counsel electronically via ECF and sent a copy of this motion to defendant at the below-listed addresses:

Geoffrey Ryan Willis
Email: ryan@dysartwillis.com

Christian Emerson Dysart
Email: christian@dysartwillis.com

Meredith Woods Hubbard
Email: meredith@dysartwillis.com

Treyton Lee Thomas
Reg. No. 21592-084
FCI Coleman Low
Federal Correctional Institution
P.O. Box 1031
Coleman, FL 33521

Treyton Lee Thomas
Reg. No. 21592-084
FCI Coleman Low
Federal Correctional Institution
Satellite Camp
P.O. Box 1027
Coleman, FL 33521

ROBERT J. HIGDON, JR.
United States Attorney

By: /s/ John E. Harris
JOHN E. HARRIS
Assistant United States Attorney
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
E-mail: john.harris5@usdoj.gov
NC State Bar No. 49253